

**Facsimil Transmission**

December 3, 2003

WRITER'S DIRECT DIAL:  
212-790-2131  
INTERNET ADDRESS:  
DDLEE@PENNIE.COM  
DIRECT FAX NUMBER:  
212-699-0366

New York, N.Y.  
1155 Avenue of the Americas  
New York, N.Y. 10036  
(212) 790-9090  
Facsimile: (212) 869-8864/9741

Sender: David D. Lee

Pages (including this page): 2

Our Ref.: 618-1047-999

Recipient:	Company:	Fax Number:
Examiner Huyen D. Le	USPTO	703.746.5862

Confirmation copy will not follow.

**INFORMAL COMMUNICATION**

Re: U.S. Patent Application No. 10/053,621  
Inventor: O'Brien et al.  
Filed: January 24, 2003  
For: WRITING INSTRUMENT

**Message**

Dear Examiner Le:

Attached is a list of proposed claim language for discussion during our interview scheduled for Thursday, Dec. 4, 2003.

Please note that this is an informal communication and is not meant to be included in the file for this application.

Sincerely,

David D. Lee (Reg. No. 51,929)

---

If you have any problems regarding this transmission, please contact David D. Lee at 212-790-2131.

The information contained in this facsimile message is information protected by attorney-client and/or the attorney work product privilege. It is intended only for the use of the individual named above and the privileges are not waived by virtue of this having been sent by facsimile. If the person actually receiving this facsimile or any other reader of the facsimile is not the named recipient or the employee or agent responsible to deliver it to the named recipient, any use, dissemination, distribution, or copying of the communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone and return the original message to us.

**Informal Communication**  
Not for Entry Into File

Proposed Amendments to Claims for 10/053,621

1. A writing instrument comprising:  
 a barrel having a channel, an open end, and a side surface;  
 an actuator ~~located~~ for disposed entirely on said side surface of said barrel; and  
 a writing element disposed in said channel and movable along a longitudinal axis  
 between a retracted position and an extended position;  
 wherein:  
 said writing element is operatively connected to said actuator, said actuator being  
capable of moving said writing element from the retracted position to the extended position;  
 at least a portion of said writing element is resilient;  
said writing element is substantially straight in the retracted position;  
 said writing element is deflected in a direction substantially transverse to the  
 longitudinal axis upon being moved into said extended position; and  
 the resiliency of said writing element biases said writing element to engage said  
 channel and to retain said writing element in said extended position.

11. A writing instrument comprising:  
 a barrel having an open end, a closed end, and a channel extending between said  
 open end and said closed end; and  
 a writing element having a writing end, said writing element being disposed in  
 said channel and movable along a longitudinal axis between a retracted position with said writing  
 end within said channel and an extended position with said writing end extending through and  
 outside said open end;  
 wherein:  
said writing element is substantially straight in the retracted position;  
 said writing element resiliently engages said channel to retain said writing element in said  
 extended position; and  
 movement of said writing element in a direction substantially transverse to the  
 longitudinal axis disengages said writing element from said channel to return said writing  
 element to said retracted position.

Attorney Docket No. 618-1047-999

NY2: 1484034.1